

REMARKS

This is in response to the Office Action mailed October 3, 2003. In the Office Action, claims 1-15 were rejected. With this response, claims 1, 5 and 12 are amended; claims 4, 14 and 15 are cancelled; and the remaining claims are unchanged in the application.

Section 2 of the Office Action indicated that independent claims 1 and 12 were rejected under 35 U.S.C. §103(a) as being unpatentable over Itoh (U.S. Patent 4,401,763) in view of Parth (U.S. Patent 3,784,359) and Staffin et al. (U.S. Patent 3,607,071). Applicant has amended independent claim 1 to recite the subject matter previously set forth in dependent claim 4, now cancelled. With respect to this subject matter, the Office Action conceded that Itoh does not disclose a sample flow controller being a metering pump. However, the Office Action asserted that, "The gas stream has a pump along with a metering device (37). This shows that one of ordinary skill in the art could have some type of device to meter on the sample flow controller to monitor how much of the sample is distributed."

Respectfully, Applicant disagrees. First, flow meter 37 of Itoh meters the combustion gas. Accordingly, the metering provided by device 37 is for completely different reasons than sample metering. Additionally, as set forth in Applicant's response previously, Itoh would have no reason to include a sample metering device because Itoh teaches batch-mode processing. The metering of Itoh is controlled by the sample batch size. Further, even if the statements set forth in the Office Action could be construed as providing a suggestion to incorporate "some type of device" to meter the sample flow, that does not necessarily suggest the selection and configuration of the metering device featured in amended claim 1. Accordingly,

Applicant respectfully submits that amended claim 1 is allowable over the art of record, taken alone or in combination.

Independent claim 12 has been amended to include the subject matter originally set forth in dependent claim 14. This subject matter was rejected in section 5 of the Office Action under 35 U.S.C. § 103(a) as being unpatentable over Itoh in view of Parth and Staffin et al. and further in view of Suzuki et al. (U.S. Patent 6,051,161). In this regard, the Office Action conceded neither Itoh nor Parth disclose where the carbon dioxide output is indicative of total organic carbon in a sample stream. The Office Action asserted, however, that Suzuki et al. disclose where the output is indicative of total organic carbon in a sample stream. The Office Action continued by asserting that, "It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Itoh to include where the output is indicative of total organic carbon in the sample stream as taught by Suzuki et al. since this modification would help the artisan in the waste water industry to determine the carbon content." Respectfully, the subject matter originally set forth in dependent claim 14 and now set forth in amended claim 12 is a feature of measuring "total carbon" in the sample stream. This is a quantity that includes both total organic carbon and total inorganic carbon. Applicant respectfully submits that the measurement provided by the analyzer of Staffin is indicative of total organic carbon. Additionally, Suzuki et al. similarly does not teach or suggest the measurement of total carbon. Accordingly, Applicant respectfully submits that the methods set forth in amended claim 12 that continuously analyzes total carbon content in water is allowable over the art of record, taken alone or in combination.

Applicant respectfully submits that dependent claims 2, 3, 5-11 and 13 are allowable by virtue of their dependency, either directly or indirectly, from allowable independent claims.

Accordingly, Applicant respectfully submits that the entire application is now in condition for allowance. Reconsideration and favorable action are respectfully requested.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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